

Subpart 1823.71—Frequency Authorization

1823.7101 Contract clause.

The contracting officer shall insert the clause at 1852.223–71, Frequency Authorization, in solicitations and contracts calling for developing, producing, constructing, testing, or operating a device for which a radio frequency authorization is required.

PART 1824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1824.1—Protection of Individual Privacy

Sec.

1824.102 General.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 55758, Oct. 29, 1996, unless otherwise noted.

Subpart 1824.1—Protection of Individual Privacy

1824.102 General.

(1) For NASA rules and regulations implementing the Privacy Act, see Privacy—NASA Regulations, (14 CFR 1212). The Act applies to any contractor maintaining a system of records to accomplish a NASA mission.

(2) Systems of records to which the Privacy Act does not apply include—

(i) Records maintained by a contractor on individuals employed by the contractor on its own behalf for the purpose of providing supplies and services to the Federal Government; and

(ii) Records that—

(A) Are maintained under contracts with educational institutions to provide training;

(B) Are generated on students working under the contract relative to their attendance (admission forms, grade reports, etc.);

(C) Are similar to those maintained on other students; and

(D) Are commingled with their records on other students.

PART 1825 FOREIGN ACQUISITION

Sec.

1825.003 Definitions.

1825.003–70 NASA definitions.

Subpart 1825.1 Buy American Act—Supplies

1825.103 Exceptions.

Subpart 1825.4 Trade Agreements

1825.400 Scope of subpart.

Subpart 1825.9 Customs and Duties

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Subpart 1825.11 Solicitation Provisions and Contract Clauses

1825.1101 Acquisition of supplies.

1825.1103 Other provisions and clauses.

1825.1103–70 Export control.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 65 FR 10031, Feb. 25, 2000, unless otherwise noted.

1825.003 Definitions.

1825.003–70 NASA definitions.

“Canadian end product”, for an item with an estimated value of \$25,000 or less, means an unmanufactured end product mined or produced in Canada or an end product manufactured in Canada, if the cost of its components mined, produced, or manufactured in Canada or the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product. For an end product with an estimated value in excess of \$25,000, the definition at FAR 25.003 applies.

Subpart 1825.1—Buy American Act—Supplies

1825.103 Exceptions.

(a)(i) The Assistant Administrator for Procurement has determined that it is inconsistent with the public interest to apply restrictions of the Buy American Act to Canadian end products with estimated values of \$25,000 or less as defined in 1825.003–70. Accordingly, contracting officers must evaluate all offers for such Canadian end

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products on a parity with offers for domestic end products, except that applicable duty (whether or not a duty free entry certificate may be issued) must be included in evaluating offers for Canadian end products.

(ii) The Assistant Administrator for Procurement has determined that for procurements subject to the Trade Agreements Act, it would be inconsistent with the public interest to apply the Buy American Act to U.S.-made end products that are substantially transformed in the United States.

[65 FR 10031, Feb. 25, 2000, as amended at 68 FR 11748, Mar. 12, 2003; 69 FR 21765, Apr. 22, 2004]

Subpart 1825.4—Trade Agreements

1825.400 Scope of subpart.

(b) The Buy American Act applies to all acquisitions of Japanese end products or services in excess of \$2,500.

[65 FR 10031, Feb. 25, 2000, as amended at 67 FR 50824, Aug. 6, 2002]

Subpart 1825.9—Customs and Duties

1825.901 Policy.

NASA has statutory authority to exempt certain articles from import duties, including articles that will be launched into space, spare parts for such articles, ground support equipment, and unique equipment used in connection with an international program or launch service agreement. This authority is fully described in 14 CFR part 1217.

Subpart 1825.11—Solicitation Provisions and Contract Clauses

1825.1101 Acquisition of supplies.

(c)(1) NASA has determined that the restrictions of the Buy American Act are not applicable to U.S.-made end products.

(e) The contracting officer must add paragraph (k) as set forth in 1852.225-8, Duty-Free Entry of Space Articles, in solicitations and contracts when the supplies that will be accorded duty-free

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entry are identifiable before award. Insert the supplies determined in accordance with FAR subpart 25.9 and 1825.903.

[65 FR 10031, Feb. 25, 2000, as amended at 68 FR 11748, Mar. 12, 2003]

1825.1103 Other provisions and clauses.

1825.1103-70 Export control.

(a) Background. (1) NASA contractors and subcontractors are subject to U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR parts 730 through 799. The contractor is responsible for obtaining the appropriate licenses or other approvals from the Department of State or the Department of Commerce when it exports hardware, technical data, or software, or provides technical assistance to a foreign destination or “foreign person”, as defined in 22 CFR 120.16, and there are no applicable or available exemptions/exceptions to the ITAR/EAR, respectively. A person who is lawfully admitted for permanent residence in the United States is not a “foreign person”. (See 22 CFR 120.16 and 15 CFR 734.2(b)(2)(ii))

(2) The exemption at 22 CFR 125.4(b)(3) of the ITAR provides that a contractor may export technical data without a license if the contract between the agency and the exporter provides for the export of the data. The clause at 1852.225-70, Alternate I, provides contractual authority for the exemption, but the exemption is available only after the contracting officer, or designated representative, provides written authorization or direction enabling its use. It is NASA policy that the exemption at 22 CFR 125.4(b)(3) may only be used when technical data (including software) is exchanged with a NASA foreign partner pursuant to the terms of an international agreement in furtherance of an international collaborative effort. The contracting officer must obtain the approval of the Center Export Administrator before granting the contractor the authority to use this exemption.